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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,779	02/28/2002	Tammy C. Luttrell	TAML-100A	8976
33549	7590	11/21/2006	EXAMINER	
SANTANGELO LAW OFFICES, P.C. 125 SOUTH HOWES, THIRD FLOOR FORT COLLINS, CO 80521			GLASS, RUSSELL S	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/086,779

Applicant(s)

LUTTRELL, TAMMY C.

Examiner

Russell S. Glass

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 September 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/28/2002</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The rejection of Claim 20 under 35 U.S.C. 112, second paragraph, is withdrawn based upon applicant's amendment filed September 1, 2006.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Bianco et al., (U.S. Pub. 2002/0082865).**
3. As per claim 1, Bianco discloses a process for tracking skilled-service rendered to a patient by a provider at a treatment location, comprising the steps of:  
  
generating, at the treatment location, at least one record of progress made toward each treatment goal identified for the patient and addressed by the provider during a treatment session, (Bianco, Abstract, Fig.1, ¶ 11-24);

receiving an input comprising each said record of progress so generated, for storage as treatment record data at a host location, (Bianco, Abstract, Fig.1, ¶ 11-24);

using said treatment record data and a host processor, automatically generating a patient report, (Bianco, Abstract, Fig.1, ¶ 11-24) (pre-event and post event files are considered to be equivalent to a patient report since it performs an identical function in substantially the same way and produces substantially the same results); and

submitting said patient report to an entity selected from the group consisting of a health care facility, a health care provider, an insurer, the patient, an entity authorized to receive records of the patient, and a record-keeping entity for the provider, (Bianco, Abstract, Fig.1, ¶ 11-24) (disclosing submitting report to patient).

4. As per claim 2, Bianco discloses a process wherein: said at least one record of progress further comprises a description of said goal, a date of said treatment session, and the provider's identity; said step of receiving an input further comprises receiving said description and said provider's identity into respective data fields; and said step of submitting further comprises submitting said report for a payment from said entity for the skilled-service rendered, (Bianco, Abstract, Fig.1, ¶ ¶ 11-24, 79, **86, 89**, 90, 91, 93, **99**, 102, 103, 111) (tasks to be completed are considered equivalent to a goal since it performs an identical function in substantially the same way and produces substantially the same results).

5. As per claim 3, Bianco discloses a process wherein: said at least one record of

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progress further comprises a description of said goal and a date of said treatment session; said step of generating further comprises entering said progress made and said date into respective input fields of a treatment record display; said step of submitting further comprises transmitting said report as electronic data over a data transfer pathway to said entity for a payment for the skilled-service rendered, (Bianco, Abstract, Fig.1, ¶¶ 11-24, 79, 86, 89, 90, 91, 93, 99, 102, 103, 111).

6. As per claim 4, Bianco discloses a process wherein each said treatment goal was identified based upon an evaluation of the patient's condition, and said step of generating further comprises entering said at least one record of progress onto a hardcopy composite record; and further comprising, thereafter, the step of entering said progress made and a date of said treatment session into respective input fields of a treatment record display, (Bianco, Abstract, Fig.1, ¶¶ 11-24, 79, 86, 89, 90, 93, 91, 100, 102, 103, 104, 111, 117).

7. As per claim 5, Bianco discloses a process wherein each said treatment goal was identified based upon an evaluation of the patient's condition; and further comprising, prior to the step of automatically generating said patient report, the step of generating a plan comprising a prescription for follow-up with the patient, (Bianco, Abstract, Fig.1, ¶¶ 11-24, 79, 86, 89, 90, 93, 91, 100, 102, 103, 104, 111).

8. As per claim 6, Bianco discloses a process further comprising the steps of:

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generating an evaluation record comprising a description of said evaluation, a date of said evaluation, and an evaluator's identity, (Bianco, Abstract, Fig.1, ¶¶ 11-24, 79, 86, 89, 90, 93, 91, 100, 102, 103, 104, **111**); and

receiving an input comprising said evaluation record for storage as evaluation record data at said host location, (Bianco, Abstract, Fig.1, ¶¶ 11-24, 79, **83-86**, 89, 90, **93**, 91, 100, 102, 103, 104, 111).

9. As per claim 7, Bianco discloses a process further comprising, prior to the step of generating said at least one record of progress, the steps of retrieving said evaluation record data; and wherein said step of submitting further comprises submitting said report for a payment from said entity for the skilled-service rendered, (Bianco, Abstract, Fig.1, ¶¶ 11-24, 79, **86**, 89, 90, **93**, 91, 100, 102, 103, 104, 111).

10. As per claim 8, Bianco discloses a process wherein said step of generating a plan further comprises entering said plan into an input field of a plan record display for storage as plan record data at said host location; and further comprising the steps of:

retrieving said plan record data; and

after said steps of retrieving said evaluation record data and said plan record data, the step of printing a hardcopy of said plan and said evaluation for use at said treatment location, (Bianco, Abstract, Fig.1, ¶¶ 11-24, 79, 86, 89, 90, 93, 91, 100, 102, 103, 104, 111, **117**).

11. As per claim 9, Bianco discloses a process wherein:

said step of generating further comprises the steps of generating a plurality of said records of progress, each said record associated with one of a plurality of treatment goals identified for the patient, and creating a composite record comprising each said record of progress along with a record of skilled intervention action used; and

said step of submitting further comprises transmitting said report as electronic data over a data transfer pathway to said entity for a payment, (Bianco, Abstract, Fig.1, ¶¶ 11-24, 79, 86, 89, 90, **93, 91**, 100, 102, 103, 104, 111).

12. As per claim 10, Bianco discloses a process wherein said data transfer pathway comprises a network; and further comprising, prior to the step of receiving an input, the step of entering each of said plurality of said records of progress made and a date of said treatment session into respective input fields of a treatment record display, (Bianco, Abstract, Fig.1, ¶¶ 11-24, 79, 86, **89-91**, 93, **94**, 99, 102, 103, 111).

13. As per claim 11, Bianco discloses a process wherein each said treatment goal, having been identified from a list, is further modified based upon an evaluation of the patient's condition, (Bianco, Abstract, Fig.1, ¶¶ 11-24, 79, 86, 89, 90, 91, 93, **94**, 99, 102, 103, 111).

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14. As per claim 12, Bianco discloses a system for tracking skilled-service rendered to a patient by a provider at a treatment location, comprising:

a composite record, generated at the treatment location, comprising at least one record of progress made toward each treatment goal identified for the patient and addressed by the provider during a session, (Bianco, Fig. 2A, ¶¶ 87-91);

a storage medium at a host location for storing treatment record data comprising each said record of progress so generated. (Bianco, Fig. 1, ¶¶ 83-86); and

a host processor for automatically generating, using said treatment record data, a patient report for an entity selected from the group consisting of a health care facility, a health care provider, an insurer, the patient, an entity authorized to receive records of the patient, and a record-keeping entity for the provider, (Bianco, Abstract, Fig.1, ¶ 11-24, **136-138**) (disclosing generating a report for patient with a processor).

15. As per claim 13, Bianco discloses a system wherein said at least one record of progress further comprises a description of said goal having been identified based upon an evaluation of the patient's condition and a date of said treatment session; and further comprising an interface for entering said progress made and said date into respective input fields of a treatment record display, (Bianco, Abstract, Fig.1, ¶¶ 11-24, **78-80, 87-91, 93, 94, 102, 103, 111**).

16. As per claim 14, Bianco discloses a system further comprising a user interface for entering, at said host location from a hardcopy of said composite record generated



at the treatment location, said at least one record of progress made into an input field of a treatment record display, (Bianco, Abstract, Fig.1, ¶¶ 11-24, **78-80**, **87- 91**, 93, **94**, 102, 103, 111, 116) (disclosing a treating physician using an interface to modify the treatment record).

17. As per claim 15, Bianco discloses a system wherein said composite record further comprises a plan comprising a prescription for follow-up with the patient; and further comprising an interface for entering said plan into an input field of a plan record display for storage at said host location as plan record data, (Bianco, Abstract, Fig.1, ¶¶ 11-24, **78-80**, 83-86, **87- 91**, 93, **94**, 102, 103, 111, 116) (disclosing a treating physician using an interface to modify the post-event set of electronically displayable files).

18. As per claim 16, Bianco discloses a system wherein: each said treatment goal was identified based upon an evaluation of the patient's condition; said interface further allows for entering a description of said evaluation into an input field of an evaluation record display for storage at said host location as evaluation record data; and said patient report comprises information from said at least one record of progress, said plan record data, and said evaluation record data, (Bianco, Abstract, Fig.1, ¶¶ 11-24, **78-80**, 83-86, **87- 91**, 93, **94**, 102, 103, 111, 116) (disclosing a treating physician using an interface to modify the post-event set of electronically displayable files) (tasks to be completed are considered equivalent to a goal since it performs an identical function in substantially the same way and produces substantially the same results).

19. As per claim 17, Bianco discloses a system wherein said composite record further comprises a plurality of said records of progress, each said record associated with one of a plurality of treatment goals identified based upon an evaluation of the patient's condition; and further comprising a data transfer pathway in communication with said host processor for transmitting said report as electronic data to said entity, (Bianco, Abstract, Fig.1, ¶¶ 11-24, 79, 86, 89, 90, **93, 91**, 100, 102, 103, 104, 111).

20. As per claim 18, Bianco discloses a system further comprising a user interface for entering said composite record at the treatment location, said user interface in communication with a second data transfer pathway for transmitting said composite record entered to said host location storage medium, (Bianco, Abstract, Fig.1, ¶¶ 11-24, **78-80, 83-86**, 87- 91, 93, 94, 102, 103, 111).

21. As per claim 19, Bianco discloses a computer executable program code on a computer readable storage medium for tracking skilled-service rendered to a patient by a provider at a treatment location, the program code comprising:

a first program sub-code for receiving an input of data comprising at least one record of progress made toward each treatment goal identified for the patient and addressed by the provider at the treatment location during a session, (Bianco, Abstract, Fig.1, ¶¶ 11-24, **78- 91, 93, 94, 96, 102**, 103, 111, 116);

a second program sub-code for storing each said record of progress so received, as treatment record data at a host location, (Bianco, Abstract, Fig.1, ¶¶ 11-24, **78- 91**, **93, 94, 96, 102**, 103, 111, 116); and

a third program sub-code for generating a patient report using said treatment record data and a host processor, said patient report comprising information from said at least one record of progress for submitting to an entity selected from the group consisting of a health care facility, a health care provider, an insurer, the patient, an entity authorized to receive records of the patient, and a record-keeping entity for the provider, (Bianco, Abstract, Fig.1, ¶¶ 11-24, **78- 91**, **93, 94, 96, 102**, 103, 111, 116) (disclosing submitting report to patient).

22. As per claim 20, Bianco discloses a program code wherein said input comprising said at least one record of progress is first entered through a user interface at said treatment location and temporarily stored as local treatment record data, and said first program sub-code further comprises instructions for accepting said local treatment record data at said host location; and further comprising a fourth program sub-code for transmitting said patient report over a data transfer pathway for payment from said entity (Bianco, Abstract, Fig.1, ¶¶ 11-24, **78- 91**, **93, 94, 96, 99**, **102**, 103, 111, 116).

### ***Response to Arguments***

Applicant's arguments filed September 1, 2006 have been fully considered but they are not persuasive for the following reasons:

1. As per Applicants argument that Bianco fails to disclose a process, method, and computer program product for generating, at the treatment location, at least one composite record of progress made toward each treatment goal identified for the patient, and addressed by the provider during a treatment session, it is submitted that Bianco does in fact disclose these features, (Bianco, Fig. 4, ¶ 92, 93) (disclosing determining a treatment pathway timeline based on diagnosis and treatment, and addressed with a practitioner's code, which is considered to be generating at least one record of progress made toward each treatment goal identified for the patient, addressed by the provider during a treatment session).
2. As per applicant's argument that Bianco fails to disclose a process, method, and computer program product for receiving an input comprising each said record of progress so generated, for storage as treatment record data at a host location, it is submitted that Bianco does in fact disclose these features, (Bianco, Fig. 4, ¶ 93) (disclosing receiving input of diagnosis and treatment information to a system for access and storage by a patient via a practitioner code).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell S. Glass whose telephone number is 571-272-3132. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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RSG  
11/10/06

A handwritten signature in black ink, appearing to be 'RSG', written in a cursive style.A handwritten signature in black ink, appearing to be 'C. Luke Gilligan', written in a cursive style.  
C. LUKE GILLIGAN  
Primary PATENT EXAMINER